

**JUDICIAL COUNCIL OF THE SIXTH CIRCUIT**  
**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

In re:  
Complaint of Judicial Misconduct

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\*No. 06-19-90029  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complainant is a federal prisoner serving a life sentence for a number of controlled substance and firearm offenses. The subject judge presided over the complainant’s jury trial and ultimately imposed the life sentence.

The complainant now alleges that the subject judge “denied [him] all and any Brady or discovery material.” He lists a number of motions that the subject judge denied and argues that there is a reasonable probability that the outcome of his proceedings would have been different had the subject judge provided the requested materials. The complainant also alleges that the prosecution withheld exculpatory evidence at his trial.

After conducting an initial review, the chief judge may dismiss a complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts and does not indicate a mental or physical disability resulting in inability to discharge the duties of judicial office”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The complainant’s allegations are direct attacks on rulings made by the subject judge in the underlying criminal proceedings. Under the Rules for Judicial-Conduct and Judicial-Disability Proceedings, allegations “[d]irectly related to the merits of a decision or procedural ruling” are not the proper subject of a complaint of judicial misconduct. See Rule 4(b)(1), commentary, Rules for Judicial-Conduct and Judicial-Disability Proceedings. The complaint is therefore subject to dismissal as directly related to the merits of judicial decisions made in the underlying proceedings, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and

Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. And because the rules govern only the conduct of federal judges, see Rule 1(b), the complainant's allegations against the federal prosecutor are not cognizable here.

For these reasons, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

*/s/ R. Guy Cole, Jr.*  
Chief Judge

Date: February 18, 2020